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SIPDIS

DEPARTMENT FOR AF A/S FRAZER, SE WILLIAMSON, AF/SPG, IO,
NSC FOR BPITTMAN AND CHUDSON

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SUBJECT: SPLM FEVERISHLY TRIES TO BROKER ILLUSORY "ICC
DEAL" WITH NCP

REF: KHARTOUM 996

Classified By: CDA Alberto M. Fernandez, reasons 1.4 (b) and (d).

11. (C) Summary: The Sudan People's Liberation Movement (SPLM) is trying to broker a "package deal" of political concessions on Darfur, CPA progress, and engagement with the International Criminal Court to blunt or mute the impact of pending new ICC indictments against senior officials of the National Congress Party of President Al-Bashir, the SPLM's partners in the Government of National Unity. SPLM officials will brief FVP Salva Kiir in Juba on July 10 with the intention that Kiir will come to Khartoum on July 11 to "sell" what may be an illusory compromise built on unrealistic expectations of the ICC and the international community. End summary.

AN OFFER YOU CAN REFUSE

12. (C) On the margins of a dinner for UK FM David Miliband on July 9, SPLM Deputy SG Yassir Arman and FM Deng Alor briefed CDA Fernandez on their efforts to "broker a way out" for an NCP increasingly obsessed about upcoming ICC indictments. Earlier in the day, Arman, Alor and Cabinet Affairs Minister Pagan Amun had been closeted with NISS Director General Salah Ghosh to discuss finding some sort of face-saving measure that could ensure a basic level of stability in Sudan, allowing the NCP the political space to stay in power but also pushing it to make major concessions to the international community (and to the SPLM).

13. (C) Alor said that the three elements of such a package deal would be a "Darfur roadmap" outlining steps the regime could take now, rather than waiting for some future comprehensive AU-UN peace talks with the rebels which may never occur. This would include the regime taking pro-active steps to declare Darfur a single "special region" (instead of being divided into three states as it is today), to offer rebels some tangible incentives to make peace, and to seek to address IDP concerns about compensation, voluntary returns and land rights. A second element of the package would be to "cooperate in some fashion with the ICC." Arman said that this could be prepped by a possible trip of FM Alor and Presidential Advisor Mustafa Othman Ismail to London as soon as next week. The third element would be definitive progress on those issues of deepest interest to the SPLM, such as getting Abyei settled now.

COURT SHOULD ACT STRATEGICALLY

14. (C) The three SPLM leaders would brief Salva Kiir in Juba

on July 10 with the goal of having him come up to Khartoum on July 11 to convince President Al-Bashir. Showing a basic misunderstanding of the ICC, the SPLM leaders urged CDA (and presumably FM Miliband with whom they discussed the same options at great length through the evening) to "use the court strategically" by targeting figures such as former Minister of Defense Bakri Salih (currently the powerful Minister of Presidential Affairs and a close Al-Bashir crony), hardliner Nafie Ali Nafie (who actually had no role in Darfur in 2003-2005), current Defense Minister Abduraheem Muhammad Hussein (who was Interior Minister during the worst of the Darfur violence), NCP SG Ibrahim Ahmed Omar and others to separate the President from the NCP's Islamist core. As Arman described it, if Al-Bashir can rule Sudan with the Army, without the Islamist radicals, real concessions can be extracted from the regime. He depicted the possibility that Al-Bashir or VP Taha (the architect of the Comprehensive Peace Agreement) would be indicted themselves as "a nightmare as they will close circle around him and abet his worst instincts." Yasir added that weakening Al-Bashir, Taha or even the ruthless but practical Salah Ghosh would strengthen the Islamist ideologues inside the party who would use the indictments and the weakness at the top to advance their own agenda.

15. (C) Alor said that the one on one meeting between President Al-Bashir and FM Miliband (without a translator, which forced Al-Bashir to speak in rusty English) "did not go well." UK Ambassador Marsden told CDA Fernandez that Miliband had urged Al-Bashir to "find some way to engage the court no matter what happens." Charge urged both Arman and Alor to move quickly if indeed they feel they have a deal "because we

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don't know how much time we have." He also warned them not to over-estimate the logic of the ICC and the international community's influence over this institution. Arman countered that surely the court will take into account the concerns of the US, UN and EU, "someone must be whispering in their ear." He noted that there is also the "Zimbabwe factor" at work as the NCP sees all the heat put on the Mugabe regime by the West "and nothing actually happens to them." Some in the regime think they are stronger than Zimbabwe. CDA countered that Sudan could be weaker than Zimbabwe in that there are real or potential rebel groups (including the SPLM) surrounding the regime although Sudan's oil production could well be a trump card.

16. (C) Comment: As often happens with the SPLM, this is a bold and well-intentioned idea seeking to exploit the moment for their own gain but with suspect timing and execution. Despite these caveats, the SPLM sometimes surprises and pulls off a breakthrough. But they seem to be assuming that they have more time and that there is greater flexibility with the ICC and willingness from the international community to "fix the court" than there actually is. They may also be exaggerating the moderation of the NCP. But certainly, if the NCP were to seek to find a way out -- rather than outright defiance and rejection of the ICC -- of this challenge the way to do so would be to come up with a stance combining some sort of "escalation" (such as heated public rhetoric, expulsion of some diplomats, mass rallies) with internal fence-mending such as reaching out to Darfur and making up with the SPLM and Northern opposition parties. That assumes that the NCP will react calmly and rationally to Ocampo's charges.

FERNANDEZ